

United States District Court
District of Puerto Rico

-----x
United States Of America,

v.

Civil No. 97-271 (GAG)

Carlos Gutierrez Naranjo,

Defendant,
-----x

Motion To Correct Clerical Mistake
Pursuant To Rule 60(a) F.R.Civ.P. 28 USC

Introduction:

Comes Now, defendant pro se at FCI Fort Dix, NJ, files this motion to correct clerical mistake pursuant to Rule 60(a) Federal Rule of Civil Procedure 28 United States Code.

Jurisdiction:

The district court has jurisdiction pursuant to Rule 60(a) F.R.Civ.P. 28 USC.

Background:

The distirct court adopted the magistrate report and recommendation on February 4, 2008, on the defendant's motion to issue mandamus for return of property under §1361 28 USC. The full and complete detail background information appears in this court published opinion in U.S. v. Gutierrez Naranjo, 534 F.Supp. 2d 246 (D. Puerto Rico 2008).

Argument:

F.R.Civ.P. Rule 60(a) Clerical Mistakes Provides as follows:

"Clerical mistakes in judgments orders or other parts of the record and errors therein arising from oversight or omission may be corrected

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by the court at any time of its own initiative
or on the motion of any party and after such
notice, if any, as the court orders . . ."

28 U.S.C. Rule 60(a) F.R.Civ.P. See, U.S. v. Billheimer, (2003,
S D Ohio) 92 AFTR 2d 6250 (court's omission of word "Blue" from
name of trust was obvious clerical error).

In this instant case, the clerical mistake occurred in
the published opinion in U.S. v. Gutierrez Naranjo, 534 F.Supp.2d
246, 247 (D. Puerto Rico 2008), where the name Francisco Acevedo
Padilla, appears for the defendant whereas this instant action
was filed pro se with the assistance of a prison law clerk in
Fort Dix, New Jersey. Mr. Acevedo-Padilla did not take part
in this forfeiture action and infact he was responsible is mis-
managing the defendant's criminal case.

Therefore, the defendant request this court to correct
this clerical mistake by deleting the name of Francisco Acevedo-
Padilla from this action and replacing it with "pro se" in the
copy of the publication that appears in U.S. v. Gutierrez Naranjo
534 F.Supp.2d 246 (D. Puerto Rico 2008).

Conclusion:

For the reason stated, relief be granted.

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Respectfully Submitted,

A handwritten signature in cursive script, reading "Carlos Gutierrez Naranjo", written over a horizontal line.

Carlos Gutierrez Naranjo

#31804-039

FCI Fort Dix

P.O.Box 2000

Fort Dix, NJ 08640.

May 15, 2008.

PROOF OF SERVICE


I certify that on 05-16-08 (date) I mailed a copy of this brief and all attachments via first class mail to the following parties at the addresses listed below:

Maritza Gonzalez Rivera
Assistant United states Attornery
350 Chandon Avenue
San Juan Puerto Rico 00918-1767.

PROOF OF SERVICE FOR INSTITUTIONALIZED OR INCARCERATED LITIGANTS

In addition to the above proof of service all litigants who are currently institutionalized or incarcerated should include the following statement on all documents to be filed with this Court:

I certify that this document was given to prison officials on 05-16-08 (date) for forwarding to the Court. I certify under penalty of perjury that the foregoing is true and correct. 28 U.S.C. §1746.


Signature

Dated: 05-16-08